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09/990,025	11/21/2001	Travis J. Parry	10008081-1	2759

  

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EXAMINER	
WIDHALM, ANGELA M	

ART UNIT	PAPER NUMBER
2152	

MAIL DATE	DELIVERY MODE
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/990,025

Applicant(s)

PARRY, TRAVIS J.

Examiner

Angela Widhalm

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is a final office action in response to remarks filed on 23 October 2007. No claims were amended, canceled, or added. Claims 1-20 are pending.

#### ***Response to Arguments***

2. Applicant's arguments filed 23 October 2007 have been fully considered but they are not persuasive.

3. In response to applicant's statement that McIntyre discloses two separate embodiments, MPEP 2136.02 explains that a 35 U.S.C. 102(e) rejection may rely on any part of the patent or application publication disclosure. Under 35 U.S.C. 102(e), the entire disclosure of a U.S. patent, a U.S. patent application publication, or an international application publication having an earlier effective U.S. filing date (which will include certain international filing dates) can be relied on to reject the claims. *Sun Studs, Inc. v. ATA Equip. Leasing, Inc.*, 872 F.2d 978, 983, 10 USPQ2d 1338, 1342 (Fed. Cir. 1989). See MPEP § 706.02(a).

As claimed, McIntyre also teaches an external management facility sending across a network to a device (i.e. first device) an upgrade command and a network address associated with the desired configuration (i.e. second device). The first device then sends a request for the desired configuration to the second device. McIntyre's second embodiment teaches a printer control program remote to printer 220 sending an update command across a network to printer 220. The configuration settings are stored

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in storage media 240, which may be located in printer 221. Printer 220 accesses the configuration settings in storage media 240. See paragraphs 33-35.

***Summary of Claimed Invention***

4. The claimed invention relates to an imaging device, computer-usable medium, and methods for upgrading the configuration of a device based on another device's configuration. The system uses the configuration settings of a model device to automatically configure other devices. In which, in the same field of invention, the applied reference teaches the same.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by

McIntyre (U.S. Patent Publication 2003/0063305).

7. Regarding claim 1, McIntyre disclosed an imaging device comprising:

a network interface adapted for coupling to a network (see [0012], [0022]); and

a processing facility, wherein the processing facility is adapted to request a device configuration to upgrade an internal configuration of the device from a second device through the network interface in response to receiving an external upgrade

command through the network interface from an external management facility and a network location of the second device (see [0033]-[0035], [0031], [0029]) *A specific printer 221 may store its control settings in storage media 240 that is accessible to multiple printers. Printer control program 250 on printer 220, i.e. processing facility of device, is able to upgrade its control settings by requesting the control settings of specific printer 221, i.e. a second device, that is stored in storage media 240. Printer 220 only upgrades its settings after receiving an upgrade command from a user or specific printer 221 or printer control program 150, i.e. external management facility. Within the upgrade command is included the storage location of the control settings in the network accessible storage media 240.*

8. Regarding claims 2 and 19, McIntyre disclosed the device configuration from the second imaging device is requested from a storage location that is selected from the group consisting of: the second imaging device, a local network site, a remote network site, a website, a server, and a third imaging device (see [0026]).

9. Regarding claims 3, 9, and 17, McIntyre disclosed the external upgrade command is given by an external management facility which resides on a platform that is selected from the group consisting of: a workstation, a server, a network device, a management interface on the imaging device, an embedded webserver in an imaging device, and a master imaging device (see [0025]).

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10. Regarding claims 4, 7, and 11, McIntyre disclosed the device configuration from the second imaging device is selected from a group consisting of at least one of: firmware code, software code, supplemental data, and a configuration parameter (see [0024]).

11. Regarding claim 5 and 12, McIntyre disclosed the device configuration from the second imaging device comprises at least one configuration parameter, where a mask is applied to the at least one configuration parameter to exclude portions thereof from being changed on the imaging device while being upgraded (see [0028]).

12. Regarding claim 6, McIntyre disclosed a computer-usable medium having computer-readable instructions stored thereon for execution by a processor to perform a method comprising:

- communicating with a first imaging device having a device configuration with an external management facility (see [0024]-[0026]);

- communicating with a defined list of second imaging devices, each second imaging device having a configuration (see [0026], [0035]); and

- directing the second imaging devices with the external management facility of the first imaging device to update their device configuration using the device configuration of the first imaging device (see [0011]-[0013], [0029]) in a manner selected from the group consisting of: retrieving the device configuration from the first imaging device, storing the device configuration of the first imaging device in a storage location, and

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directing each of the second imaging devices to retrieve the device configuration of the first imaging device from the storage location; and directing each of the second imaging devices to retrieve the device configuration from the first imaging device (see [0029], [0031], [0033]-[0035]).

13. Regarding claim 8, McIntyre disclosed a method of updating device configuration for imaging devices connected to a network, comprising:

- defining a list of similar devices connected to the network, wherein the similar imaging devices share a common configuration, firmware, software, or supplemental information (see [0029], [0035]);

- defining a network location associated with desired device configuration for the list of similar imaging devices (see [0033]-[0035]); and

- directing each imaging device of the list of similar imaging devices with an external management facility to retrieve the device configuration from the network location, by communicating with each imaging device of the list of similar imaging devices across the network with the external management facility (see [0029]).

14. Regarding claim 10, McIntyre disclosed the invention, substantially as claimed, as described above in claim 9, further comprising:

- retrieving the device configuration of an imaging device similar to the list of imaging devices with the management facility, wherein the similar imaging device

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shares a common configuration, firmware, software, or supplemental information with the list of imaging devices (see [0029], [0035]); and

placing the device configuration at the network location (see [0033]-[0035]).

15. Regarding claim 13, McIntyre disclosed the network location is selected from the group consisting of: an imaging device similar to the list of imaging devices and shares a common configuration, firmware, software, or supplemental information with the list of imaging devices, a local network site, a remote network site, a website, and a server (see [0029], [0035]).

16. Regarding claim 14, McIntyre disclosed periodically checking for changes in device configuration, and if a change is noted, initiating a follow-up update (see [0031]).

17. Regarding claim 15, McIntyre disclosed a method of upgrading an imaging device, comprising:

receiving across a network an external upgrade command from an external management facility and a network location associated with a desired device configuration for the imaging device; and (see [0029], [0031], [0033]-[0035])

retrieving the desired device configuration from the network location (see [0029], [0035]).



18. Regarding claim 16, McIntyre disclosed the desired device configuration is that of a similar imaging device, wherein the similar imaging device shares a common configuration, firmware, software, or supplemental information with the imaging device (see [0029], [0035]).

19. Regarding claim 18, Brown disclosed the invention, substantially as claimed, as described above in claim 15, further comprising:

retrieving the device configuration of a selected imaging device with a management facility (see [0029]); and

placing the device configuration at the network location (see [0033]-[0035]).

20. Regarding claim 20, Brown disclosed the imaging device selects an appropriate version of the desired device configuration from the network location to match its type (see [0030], [0037]; *ensuring that the appropriate version is downloaded is inherently included when downloading firmware updates*).

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Schlonski et al. U.S. Patent Publication 2002/0196451.

### **Conclusion**

22. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant.

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Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

23. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela Widhalm whose telephone number is (571) 272-1035. The examiner can normally be reached M-F, 9:00 am - 5:30 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Angela Widhalm  
Examiner  
Art Unit 2152  
3 January 2008

/Bunjob Jaroenchonwanit/

Supervisory Patent Examiner

5 January 2008